

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES CARTER, Plaintiff, }  
v. } C.A. No. 09-66 ERIE  
WARDEN J.T. SHARTLE, Defendant. }

**MEMORANDUM ORDER**

*Pro se* petitioner James Carter has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241, in which he alleges that the Federal Bureau of Prisons (BOP) calculated his sentences incorrectly. The petition was received by the Clerk of Court on April 16, 2009, having been originally mailed to the United States District Court for the Northern District of Ohio, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation ("R&R"), filed on February 8, 2011, recommended that the petition for writ of habeas corpus be transferred to the United States District Court for the Northern District of Ohio, where petitioner was confined at the time he filed his petition. (Doc. 13).

The parties were allowed fourteen (14) days from the date of service to file objections. Objections were filed by the petitioner on February 28, 2011. After de novo review of the pleadings and documents in the case, together with the report and recommendation and objections thereto, we adopt Magistrate Judge Baxter's February 8, 2011 R&R as the Opinion of the Court.

To the extent that Mr. Carter is arguing that the transfer of his petition from United States District Court for the Northern District of Ohio was ordered by that court so that we may address his objections to how his sentence was imposed pursuant to 28 U.S.C. § 2255 rather than § 2241, we note said argument is untimely and that Mr. Carter has previously been notified of his rights pursuant to United States v. Miller, 197 F.3d 644 (3d Cir. 1999) (C.A. Nos. 06-268 E and 05-333 E, at Doc. 50 of CR 02-11 E ).

AND NOW, this 26<sup>th</sup> day of May, 2011, IT IS HEREBY ORDERED, ADJUDGED and DECREED that said report and recommendation is adopted as the opinion of the Court. The Petition for Writ of Habeas Corpus is hereby transferred to the United States District Court for the Northern District of Ohio.

Maurice B. Cohill, Jr.

MAURICE B. COHILL, JR.  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_